IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 19437 of 2001(L)

PETITIONER:

THE ZONAL MANAGER, INDIAN BANK,
ZONAL OFFICE, PULLEPADY JUNCTION,
CHITTUR ROAD, ERNAKULAM , KOCHI 682 035.

(NOW-RE-DESIGNATED AS DEPUTY GENERAL MANAGER,
INDIAN BANK, CIRCLE OFFICE, PULLEPADY JUNCTION,
CHITTUR ROAD, ERNAKULAM , KOCHI 682 035.

BY ADV. SRI.E.SUBRAMANI
SRI.S.EASWARAN

RESPONDENTS:
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1. **THE INDIAN BANK EMPLOYEES ASSOCIATION (KERALA),**
REP.BY ITS ASSISTANT SECRETARY,
INDIAN BANK EMPLOYEES ASSOCIATION, (KERALA)
ROOM NO.41/1757, PARAMARA BUILDING,
OPPOSITE TO TOWN HALL, KOCHI 682 018.

2. **THE LABOUR COURT, ERNAKULAM.**

BY ADV. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY
GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.31537/2001 IN OP. NO.19437/2001

DISMISSED

13.06.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AWARD DT. 23.5.2000 IN I.D. NO.7 OF 1994 © ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

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KURIAN JOSEPH J.

O.P. NO.19437 OF 2001

Dated 13th June, 2007.

J U D G M E N T

Ext.P1 award passed by the Central Government Labour Court in I.D.7/94 is under challenge. The issue referred for adjudication is as follows :-

> "Whether the action of the management of Indian Bank, Cochin in not removing the anomaly in the fixation of salary of Shri.K.K.Chandragadhan, Clerk/Shroff vis-a-vis his juniors on promotion from sub-staff cadre to clerical cadre is justified? If not, what relief is the said workman entitled to?"

In respect of such an individual grievance, the Labour Court passed an award holding that the action of the management in not removing the anomaly in the fixation of salary of the employee is unjustifiable and a consequential direction was issued to refix his salary. The main contention taken by the petitioner management is that the pay fixation being effected on the basis of settlement between the management and its employees on negotiation through the major unions, any variation in the said terms can be effected only in subsequent settlements. Even apparent disparity in the pay scale could be rectified only as part of settlement. In the 1983 settlement, the

issue of such a disparity was not specifically addressed and hence the position as obtaining in 1978 settlement continued. In case the workmen wanted to change the policy, the same could have been made part of the subsequent settlement. It is to be seen that W2 circular was issued based on the settlement with the recognised union. Such a settlement is binding on all the workmen of the establishment. The same could be modified or varied only by another settlement. This crucial aspect of settlement with the recognised union has not been considered by the Labour Court. The award thus suffers from an error. It is accordingly set aside.

The Original Petition is allowed. No costs.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO.19437 OF 2001 (L)

J U D G M E N T

Dated 13th June, 2007.